

Sponsor: ___Frankie Dale Rife___
First Reading: ___March 7, 2016___
Second Reading: November 7, 2016

ORDINANCE 31-16

AN ORDINANCE REGULATING THE RENTING OF REAL PROPERTY IN THE TOWN OF WYOMING

WHEREAS, section 18.24 of the Wyoming Town Charter authorizes the town to “license, tax and collect fees of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation . . . renting out any real or personal property, within the limits of the Town”;

WHEREAS, section 27 of the Wyoming Town Charter authorizes and empowers the Town to “enact ordinances or resolutions relating to any subject within the powers and functions of the Town, or relating to the government of the town, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protections and preservation of property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions”; and

WHEREAS, the Town Council has determined that the peace, order, sanitation, beauty, health, safety, convenience and property of the Town will be protected and improved by adopting an ordinance to require the issuance of business licenses and the inspections of properties being rented out in the Town of Wyoming.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Wyoming, a majority thereof concurring in Council duly met, as follows:

RENTAL PROPERTIES

Section 1. - Definitions. For the purposes of this Ordinance, the following terms shall be defined as follows:

Directly related to the owner. Any person who is related by blood or marriage (i.e. “in-laws”) to the following degrees of kinship: spouse, father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, uncle, aunt, niece, nephew.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Rental unit. Any dwelling unit which is required to obtain a business license under the terms of this ordinance.

Section 2. – Business licenses required; exceptions; application and fee.

- (a) No dwelling unit may be leased, subleased, or occupied by any person other than the owner until the owner has been issued a business license by the town pursuant to Ordinance #10-07 An Ordinance Establishing Business Licenses within the Town of Wyoming (as subsequently amended) and a rental certificate of occupancy has been issued as outlined in section 3.
- (b) Exceptions.
 - (1) No business license to rent property shall be required where the owner occupies the dwelling unit.
 - (2) No business license to rent property shall be required if the occupant provides written verification that he/she is directly related to the owner.
- (c) Application. Application for a business license to rent property shall be on forms provided by the town and signed by at least one co-owner of the subject property. Such forms shall require, among other information:
 - (1) The name, address, telephone number, and email address of each owner;
 - (2) The address of the unit(s);
 - (3) The maximum occupancy of each unit which shall not exceed the maximum allowed by town ordinance; and
 - (4) The name, address, telephone number, and email address of the property manager and alternate property manager as required under section 4.
- (d) Fee. The annual fee for a business license to rent property shall be \$100.00 for the first rental unit plus \$25.00 per unit for each additional rental unit, payable in advance at the time of application. First-time business licenses to rent property shall be valid until September 30th following the date on which the license was issued, provided that first-time business licenses to rent property that were applied for and paid for in September shall be valid until September 30th of the following year. Fees for license renewals shall be paid annually by October 1st of each year.
- (e) The requirement herein to obtain a business license to rent property and the requirement to obtain a business license under Ordinance #10-07 An Ordinance Establishing Business Licenses within the Town of Wyoming (as subsequently amended) shall be considered the same requirement and only one business license shall be required for an owner to rent property. In the event there is a conflict between this Ordinance and Ordinance #10-07 (as amended), the provisions of this Ordinance shall control.

Section 3. - Rental certificate of occupancy; inspections; exceptions; fee.

- (a) *Rental certificate of occupancy required before re-occupancy.* No rental unit shall be initially occupied, or thereafter occupied after a vacancy, by any person other than the owner or persons related directly to the owner unless a rental certificate of occupancy has been issued by the town as herein provided.
- (b) *Inspection; rental certificate of occupancy.* No rental certificate of occupancy shall be issued until an inspection shall have been conducted by the town to ensure that the dwelling unit is in substantial compliance with the building, plumbing, housing, electrical, fire, and property maintenance codes of the town. After notification of vacancy by the owner, the town will conduct the inspection within five working days or such longer period of time as may be requested by the owner to prepare the rental unit for inspection. For rental units occupied by

tenants with separate leases of differing termination dates, each time a room is rented to a new tenant, the room being rented and all common areas in the rental unit shall be inspected as outlined herein. A rental unit shall be deemed to not be in substantial compliance if:

- (1) There are one or more violations which pose a serious and substantial threat to the health, safety or welfare of the occupants; or
- (2) There is an extensive number of minor violations which, cumulatively, pose a significant threat to the health, safety, welfare, or morale of the occupants.

It is the intent of this Ordinance, and the code enforcement constable shall be guided accordingly, that the greater the cumulative number of violations observed in a rental unit, the less serious any of them must be to result in a determination that a unit is not in substantial compliance; and conversely, the more serious the violations, the fewer there need be to result in a determination that a rental unit is not in substantial compliance. If consent for an inspection is not granted, the town may pursue all available legal remedies to inspect the rental unit, including the seeking of an administrative search warrant to inspect the rental unit.

- (c) *Exceptions.* No rental certificate of occupancy and no inspection shall be required for any of the following:
- (1) Any rental unit occupied by the owner or by persons directly related to the owner.
 - (2) Any rental unit for which a certificate of occupancy has been issued within the past 12 months following construction or substantial reconstruction of such rental unit.
 - (3) Any rental unit for which a rental certificate of occupancy has been issued within the past 6 months.

Anything herein to the contrary notwithstanding, where any dwelling unit otherwise excepted from the requirement of a rental certificate of occupancy and inspection is determined to be in significant violation of any town building, housing, electrical, plumbing, fire or property maintenance code, such dwelling unit shall not thereafter be reoccupied after the first vacancy following such determination until a rental certificate of occupancy shall be issued following an inspection as provided herein. "Significant violation" for purposes hereof shall mean violations which because of their seriousness or because of their extensive number, in the aggregate, pose a significant threat to the health, safety, welfare or morale of the occupants.

- (d) *Inspection fee.* The fee shall be \$50.00 for the inspection prior to issuance of a rental certificate of occupancy, which fee shall include one follow-up inspection. When an inspection is scheduled with the town, it is the responsibility of the property owner to make sure the structure/property is ready by the time the code enforcement constable arrives on site. A minimum of one hour's notice is required to cancel or reschedule an inspection. All inspections require 24 hours' advance notice. If the code enforcement constable arrives on-site and the structure/property is not ready and the inspection was not cancelled at least one hour in advance, a \$50.00 fee must be paid at the town hall before the inspection may be rescheduled. After one follow-up inspection is made, an additional fee of \$50.00 shall be charged for each follow-up inspection required because of uncompleted or unsatisfactorily completed items found by the code enforcement constable on a previous inspection.

Section 4. – Property manager and alternate.

Every rental unit shall have a property manager and an alternate property manager designated by the owner. The property manager and alternate property manager shall each be

adult persons, specifically identified in writing by the owner on the business license application (stating their name, address, telephone numbers, and email address) who reside in such proximity to the town as to allow them to meet with the code enforcement constable at the rental unit within 24 hours of receipt of notice from the code enforcement official constable.

The property manager and alternate property manager shall be persons charged by the owner with responsibility and authority to deal with occupants of the premises on behalf of the owner, to make repairs to the rental unit, to maintain the premises and the common areas thereof, and to accept service of process on behalf of the owner.

The owner shall notify the town in writing of any changes in the name, address, email address, and/or telephone number of the property manager and alternate property manager. Failure to do so shall constitute a violation of this ordinance.

Section 5. - Penalties; enforcement remedies.

(a) *Penalties.*

(1) *Owners.* Any owner who shall violate any section of this Ordinance shall be subject to a fine of not less than \$100.00 nor more than \$500.00 plus court costs, where applicable. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(2) *Occupants.* Any tenant, lessee, sub-lessee, or other person occupying or in possession of a rental unit in violation of section 2 and/or section 3 who shall fail to comply with a notice and order to vacate as provided in subparagraph (b) of this section shall be subject to a fine of not less than \$100.00 and not more than \$500.00 plus court costs, where applicable. Each day of a continuing violation shall constitute a separate offense.

(b) *Notice and order to vacate; appeal.* Whenever the code enforcement constable determines that a rental unit has been occupied in violation of section 2 and/or section 3 of this Ordinance, he/she may provide the occupant(s) of such rental unit with a written notice and order to vacate, ordering the occupant(s)/person(s) in possession of such rental unit to vacate the rental unit within 60 days unless the town subsequently provides such person(s) with notice that such violation(s) has/have been corrected. A copy of such notice shall be sent, certified mail, return receipt requested, to the owner(s) at the owner's last known address as shown on the town's assessment records unless the owner has provided the town with written notice of another preferred address.

Any person subject to a notice and order to vacate under this subparagraph (b) and any owner of such unit shall have a right of appeal to the Town Council within 15 days of the date of the notice and order on the limited issue of whether or not the rental unit is in violation of section 2 and/or section 3.

Section 6. - Conflict with state or federal laws or regulations. Whenever any provision of this Ordinance is in irreconcilable conflict with any provision of state or federal law or regulations adopted pursuant thereto, the provisions of the federal or state law or regulations shall control and supersede the provisions of this Ordinance.

Section 7. - Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so

dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

Section 8. - Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This Ordinance requires owners of rental units in the Town of Wyoming to obtain a business license prior to leasing rental units that will be occupied by someone other than the owner or a direct relative of the owner. Rental units must be inspected and receive a rental certificate of occupancy prior to being leased unless the owner or a relative of the owner will be living in the rental unit, a certificate of occupancy was issued for the rental unit within the previous 12 months, or a rental certificate of occupancy was issued for the rental unit within the previous 6 months. Conditions are outlined whereby a rental certificate of occupancy can be denied for a rental unit. Procedures for scheduling and rescheduling rental inspections are outlined in the ordinance. When a rental unit is occupied in violation of the ordinance, the town may take actions to require the rental unit to be vacated. The ordinance outlines fees for business licenses, inspections, and penalties for violations of the ordinance.

This shall certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on November 7, 2016.

Attest: Georgette Fulthum
Council Secretary

So certifies:
Frankie Dale Ruff
Mayor

